

April 23, 2003

**VETERANS HEALTH ADMINISTRATION (VHA) EQUAL EMPLOYMENT
OPPORTUNITY (EEO) PROGRAM**

1. PURPOSE: This Veterans Health Administration (VHA) Directive provides VHA policy for the Equal Employment Opportunity (EEO) Program at VHA field facilities.

2. BACKGROUND

a. Effective November 21, 1997, Title 1 of Public Law 105-114, the Veterans' Benefits Act of 1997, was enacted. This law was entitled the Equal Opportunity Process in the Department of Veterans Affairs, and established the Office of Resolution Management (ORM), which became operational on February 22, 1998.

b. With the establishment of the ORM, medical center directors were relieved of their responsibility for serving as EEO Officers for the specific purposes of processing locally filed complaints of discrimination. Medical center directors retained accountability for eliminating discriminatory policies and practices, and maintaining a discrimination-free workplace by adhering to established Departmental policy. As past scrutiny by Congress has demonstrated, it is important that medical center directors are aware of potential problems as soon as possible. With the removal of complaint processing, directors will often not know of problems until they go beyond the local level.

(1) Facilities should have someone designated as the principal advisor to the director and top management on potential problem areas. It must be stressed that the only function that medical center directors were relieved of in operating the EEO Program was the administrative component of EEO Discrimination Complaints processing. Medical center directors retained responsibility for administering the overall VHA EEO Program at their facility and are responsible for:

(a) Assisting in the complaint process by providing assistance in an effort to resolve allegations during the informal stage and to resolve formal complaints of discrimination;

(b) Maintaining a vibrant diversity management program;

(c) Providing assistance to the ORM Field Managers, ORM Intake Specialists, Investigators, EEO Counselors, Equal Employment Opportunity Commission (EEOC) Administrative Judges, Staff Attorneys from the Office of District Counsel, and VHA Central Office EEO Staff.

NOTE: *In accordance with EEOC Directive MD-110, this staff must not serve as the agency representative during EEOC hearings.*

THIS VHA DIRECTIVE WILL EXPIRE APRIL 30, 2008

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3. POLICY: It is VHA policy to provide equal opportunity in all aspects of employment for all qualified persons, to maintain a work environment that is free of any form of unlawful discrimination, to ensure that the EEO Manager is not an employee of the Human Resources Office, and to:

- a. Promote a positive, continuing affirmative program designed to eradicate barriers to minorities, women, handicapped individuals and disabled veterans;
- b. Recognize the special employment needs and problems of women and Hispanics; and
- c. Make the Federal Women's, the Hispanic Employment, the African Americans (Black Employment), the Native Americans, and the Asian American and Pacific Islanders Programs integral parts of the total EEO Program.

4. ACTION: The medical center Director is responsible for ensuring that:

- a. One individual at the VHA facility is appointed to serve as the EEO Program Manager and principal advisor to the medical center director regarding EEO matters. This Manager serves as liaison for the medical center Director, VHA Central Office staff, and ORM. **NOTE:** *This position may be filled on a full-time, part-time or collateral duty basis, as appropriate, consistent with the needs of the facility and the availability of resources.*
- b. The EEO Manager must be trained in mediation. An example of the expected duties and knowledge for EEO Program Managers is included as Attachment A.
- c. VA Form 10-0409 (see Att. B), EEO Program Manager Designation Form, pertaining to the appointed EEO Manager, must be completed and returned to the Management Support Office, EEO and Affirmative Employment Team (10A2E), not later than June 27, 2003.

5. REFERENCES

- a. EEOC Management Directive MD-110.
- b. Title 29, Code of Federal Regulations, Part 1614.
- c. MP-7, Part 1, Change 1, Chapter 2, Section H.

6. FOLLOW-UP RESPONSIBILITY: Director, Management Support Office, EEO and Affirmative Employment Team (10A2E), is responsible for the contents of this Directive. Questions may be directed to 202-273-8907.

7. RESCISSION: VHA Directive 98-027 is rescinded. This VHA Directive expires April 30, 2008.

Robert H. Roswell, M.D.
Under Secretary for Health

Attachments

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ATTACHMENT A

**EQUAL EMPLOYMENT OPPORTUNITY (EEO) MANAGER
GENERAL SCHEDULE (GS)-260**

The incumbent serves as the principal advisor in the area of Equal Employment Opportunity (EEO), Affirmative Employment, the Civil Rights External Programs, Alternative Dispute Resolution (ADR), and Diversity Management for the medical center director, service line executives, supervisors, and employees. The incumbent is responsible to the medical center director for program development, administration, evaluation and advisory functions. This position requires knowledge of Federal EEO regulations and principles, compliance and enforcement skills, administrative, management and consulting skills, and knowledge of Federal personnel administration. **NOTE:** *This individual must not be an employee of the Human Resources Staff.*

1. MAJOR DUTIES AND RESPONSIBILITIES

a. The incumbent must exercise a high degree of judgment in analyzing and recommending solutions to problems that adversely affect EEO and Affirmative Employment. A high degree of judgment must be exercised in establishing priorities and direction for the program for maximum results. The incumbent advises management on specific actions in support of affirmative action, and strategies for handling discrimination complaints.

b. The incumbent assists the Office of Resolution Management and Administrative Judges with investigations and hearings. In collaboration with the Office of Resolution Management (ORM) Field Office, the incumbent serves as the local liaison for all aspects of the facility's complaint processing program. This includes assistance to ORM field office personnel (EEO Counselors, Investigators, and Intake Specialists) during both the counseling and investigative stages. Such involvement includes providing documentation as requested, locating and identifying employees involved in the complaint process, discussing resolution efforts, negotiating settlements, and drafting same on behalf of management. The incumbent also provides advice and assistance during the post-investigative stages (i.e., hearings, appeals, and compliance phases) for each formal complaint. This includes working with EEOC Administrative Judges, Regional Counsel staff, Office of General Counsel, Office of Employment Discrimination Complaint Adjudication, as well as local supervisors and managers.

c. The incumbent serves as technical expert for processing the following Federally-conducted external complaints in accordance with agency policy; these complaints are not processed by ORM:

(1) Section 504 of the Rehabilitation Act of 1973, prohibiting discrimination on the basis of handicap in Federally-conducted programs or activities and recipients receiving Federal financial assistance.

(2) Age Discrimination Act of 1975, prohibiting age discrimination to any program or activity.

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(3) Executive Order 13166, Limited English Proficiency, prohibiting access to services to individuals with limited English.

d. The incumbent assists VHA Central Office staff with processing the following complaints:

(1) Title IX, prohibiting discrimination on the basis of sex in education programs or activities that receive Federal financial assistance.

(2) Title VI of Civil Rights Act of 1964, prohibiting discrimination on the basis of race, color, or national origin, under any program or activity receiving Federal financial assistance from the Department of Veterans Affairs.

(3) Executive Order 13160, prohibiting discrimination on the basis of race, sex, color, national origin, disability, religion, age, sexual orientation, and status as a parent in Federally Assisted Education and Training Programs.

e. The incumbent develops an Alternative Dispute Resolution (ADR) Program, which is any procedure or combination of procedures voluntarily used to resolve issues in controversy without the need to resort to litigation. These procedures include, but are not limited to, assisted settlement negotiations, conciliation, facilitation, mediation, fact finding, mini-trials, and arbitration, that require an impartial advisor or neutral third party. Must ensure that the ADR Program meets the requirements as set forth in EEOC MD-110, Appendix H. These requirements are referred to as “core principles” and include the following: Fairness (which requires the following elements: Voluntariness, Neutrality, Confidentiality and Enforceability), Flexibility, Training and Evaluation.

f. The incumbent must become a trained and certified National Facilitator, and must conduct EEO Training, including the Prevention of Sexual Harassment, for all managers and supervisors. The incumbent must also conduct mandated “New Employee Orientation on the Prevention of Sexual Harassment” within 60-days of all newly hired employees’ employment, and must ensure that all employees receive two hours of refresher training on the Prevention of Sexual Harassment every two years.

g. The incumbent is responsible for maintaining a vibrant diversity management program which at the minimum includes: workforce analysis; identification of any under representation in major occupations compared to the Relevant Civilian Labor Force; identification of approaches for targeted recruitment; coordination with Human Resources and managers to incorporate these recruitment needs in the Human Capital and other strategic plans; coordination with Human Resources, managers, and other facilities to accomplish the needed recruitment; an active intern program for underrepresented occupations; identification and solution of barriers to underrepresented groups; active training efforts to reach grade parity among groups in individual occupations; and monitoring of employee work life satisfaction issues and developing solutions to the concerns within management control.

h. The incumbent conducts studies and analyses on the utilization of minorities and women in the workplace, identifying obstacles and outlining alternative solutions to identified problems. Compiles and analyzes statistical data in order to evaluate progress of the EEO Program. Identifies organizational or occupational areas that need improvement and develops alternatives in order to resolve problems. The incumbent also conducts analyses of the workforce by race, sex, grade, occupational series, and policies and practices affecting employment. Identifies program goals that may conflict with existing policies or practices, actions, reassignments, job training, sexual harassment, and reprisal, based on factors of race, religion, color, national origin, sex, age, and handicap.

i. The incumbent is responsible for developing, implementing, coordinating, reviewing, monitoring, evaluating, and updating all plans associated with the EEO Program. These include the Affirmative Employment Plan for Minorities and Women; Federal Employment Opportunity Recruitment Plan (FEORP); People with Disabilities; Disabled Veterans Affirmative Action Plans; and Plans to the White House on initiatives to support Historically Black Colleges and Universities (HBCU); Hispanic Serving Institutions; Native American Tribal Colleges; the Student Placement Program; and the Special Emphasis Programs (SEPs). Once these plans are developed, the incumbent must assure that all levels of management, as well as employees and union officials, are aware of the plans and objectives and how these objectives will be measured. The incumbent conducts briefings to the medical center director and management officials, making them aware of their responsibilities in relation to these plans, and to solicit their support for successful implementation. Incumbent must ensure that the plans are distributed to all levels of management and is understood by managers, as well as employees.

j. In administering the medical center's EEO Program, the incumbent must conduct periodic evaluations of the workforce to develop data that can be utilized in evaluating the effectiveness of the program. This data will form the basis for the various reports associated with the EEO Program. The incumbent must periodically meet with managers whose workforce profile indicates a need for improvement in the area of EEO, and assist them in evaluating the workforce by making recommendations on how minority and female representation may be increased. This assistance should serve not only to improve the representation of minorities, the disabled, and women in the workforce, but also to reduce or eliminate potential complaints of discrimination. Such assistance may be provided in the form of training, recommendations for changes, reviewing local policies, and providing assistance in identifying minority candidates for vacancies.

k. The incumbent ensures the activities of the Special Emphasis Program Managers and their respective committees are carried out in accordance with departmental and local policy. The incumbent serves as the representative for the facility in establishing and maintaining contact with local community groups, which are interested in civil rights and/or equal opportunity. The incumbent establishes relationships with Historically Black Colleges and Universities (HBCUs), Hispanic Serving Institutions (HSIs), and Native American Tribal Colleges (NATCs) to develop collaborative initiatives with these institutions.

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l. The incumbent serves as technical advisor to the facility's EEO Committee. The incumbent establishes and implements an effective recognition program for those who make a significant contribution to members of the facility's Federal EEO Committee.

m. The incumbent must provide sound technical advice to management and employees or applicants regarding human resources management program requirements and issues. The incumbent must establish and maintain effective relationships with, and gain the confidence and cooperation of, employees, supervisors, and managers on complex EEO and Affirmative Employment issues.

2. KNOWLEDGE AND ABILITIES REQUIRED

This position requires a high degree of judgment in analyzing and recommending solutions to problems that adversely affect EEO and Affirmative Employment. It requires judgment in establishing priorities and the direction that the program needs to take for maximum results. It requires advising management on specific actions in supporting affirmative action and devising strategies for handling EEO discrimination complaints. In order to perform these duties effectively, the individual must possess the following:

a. Knowledge of Federal EEO laws, regulations and policies. Knowledge of the operating principles of the EEO Program, to include the counseling process, the complaint process, the investigative process, the roles of the EEO Committee and Special Emphasis Programs, as well as all required plans and reports.

b. Knowledge of the principles of Personnel Management and of Federal Personnel Regulations that provide the basis for recommending changes in employment policies and practices.

c. Knowledge of the cause of barriers to Equal Employment opportunities and the cause and effects of discriminatory practices against protected classes of individuals.

d. Knowledge of and the ability to interpret Title VI and Title IX laws and regulations.

e. The ability to serve as an expert trainer in the area of EEO.

f. Ability to conduct analysis and evaluate work situations in order to effectively brief the medical center director on workable solutions to systematic problems and methods to eliminate barriers.

g. Ability to communicate effectively both verbally and in writing, prepare a variety of reports, and brief supervisors, service chiefs, and management personnel concerning all aspects of the EEO Program.

h. Ability to provide leadership and guidance to committees and Special Emphasis Program Managers.

i. Ability to evaluate the EEO Program to ensure compliance with existing regulations.



1. STATION NAME AND NUMBER

2. EEO MANAGER'S NAME

3. SERIES AND GRADE

3. PART TIME - FULL TIME *(Please Specify)*

4. IF PART TIME, LIST CLASSIFIED TITLE AND GRADE

5. EEO MANAGER'S TELEPHONE AND FAX NUMBERS

(Medical Center Director's Signature)

(Date)

(Type Medical Center Director's Name)